

FILED  
08 MAY 15 AM 10:30  
RICHARD W. FLEMING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

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Francis T. Fahy  
Plaintiff and Petitioner, In Pro. Se.  
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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

MDP

CV 08 2496

CW

FRANCIS THOMAS FAHY,  
  
Plaintiff and Petitioner, in pro se.  
  
vs.  
  
JUSTICES OF THE SUPREME COURT OF  
THE STATE OF CALIFORNIA, CHIEF  
JUSTICE RONALD M. GEORGE,  
ASSOCIATE JUSTICE CARLOS R.  
MORENO, ASSOCIATE JUSTICE JOYCE  
L. KENNARD, ASSOCIATE JUSTICE  
KATHRYN MICKLE WERDEGAR,  
ASSOCIATE JUSTICE MING W. CHIN,  
ASSOCIATE JUSTICE MARVIN R.  
BAXTER, ASSOCIATE JUSTICE CAROL  
A. CORRIGAN, THE STATE BAR OF  
CALIFORNIA, EPSTEIN, WATAI,  
STOVITZ, SCOTT DREXEL, LAWRENCE  
J. DEL CERRO, DONALD R. STEEDMAN,

Case No.: No.  
  
COMPLAINT FOR DECLARATORY AND  
INJUNCTIVE RELIEF, FOR DAMAGES  
AND OTHER RELIEF FOR VIOLATION OF  
CIVIL RIGHTS, (42 U.S.C. 1983, ET. SEQ.)  
MALICIOUS PROSECUTION,  
CONSPIRACY, NEGLIGENCE, QUI TAM.  
DEFAMATION  
JURY TRIAL DEMANDED

1 TAMMY ALBERTSEN-MURRAY, ERICA  
2 L. DEMMINGS, THOMAS HUMMER, JEFF  
3 BLEICH, SHELDON SLOAN,  
4 PRESIDENTS, STATE BAR OF  
5 CALIFORNIA, PAT MCELROY, STATE  
6 OF CALIFORNIA,

7 Defendants and respondents.

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9 JURISDICTION AND VENUE

10 1. This case, brought by an attorney admitted to the bar of the State of California, seeks to  
11 declare the defendants and respondents attorney discipline scheme (hereafter, scheme) enacted  
12 by and of the defendants and respondents State of California, and as administered by defendants  
13 and respondents justices of the Supreme Court of California, as administrators of the scheme, by  
14 and through its administrative arm, the State Bar of California, and the rest of the defendants and  
15 respondents, (hereafter, defendants or respondents or both) violates plaintiff and petitioner's, and  
16 indeed all California attorneys, their rights, privileges and immunities secured by the First,  
17 Fourth, Fifth, and Fourteenth Amendments to of the United States Constitution of the  
18 Constitution of the United States. Petitioner also seeks a declaration that the scheme, as enacted  
19 and as administered, violates Article 1, Section 8, Clause 3 and Article Six of the United States  
20 Constitution along with those provisions said above and below..

22 2. Respondents' conduct as herein alleged is in violation of Title 42 U.S.C. sections 1983  
23 1985 and 1986. This court has jurisdiction under Title 28 U.S.C sections 1331, et seq. Plaintiff  
24 further invokes the pendant jurisdiction of this Court to hear and decide claims arising out of  
25 state law, including those under California Civil Code section 52 and Business & Professions

1 Code section 17200 et seq. This is also a Qui Tam action for recovery of any Federal monies  
2 unlawfully expropriated by respondents' under the mis- and mal-administration of the scheme.

3 3. This action also challenges the constitutionality of California State statutes and venue is  
4 proper in this Court therefore. Article 1, Section 8, Clause 3 and Article Six and the First, Fourth  
5 and 14<sup>th</sup> Amendments of the United States challenges are to California State and Court statutes  
6 and rules, in their application, practice and use. The plaintiff seeks damages in excess of  
7 \$101,000.

8 4. Venue is proper pursuant to 28 U.S.C. section 84(b)(2) since all the parties reside or do  
9 business within the jurisdiction of the United States District Court for the Northern District of  
10 California, and all events conduct or behavior alleged in complaint occurred within San  
11 Francisco County and this district.

#### 12 NATURE OF ACTION

13 5. The respondents' scheme maintains a premise that when an attorney's Interest On  
14 Lawyer's Trust Account (hereafter IOLTA) falls below the amount held in trust it is conclusive  
15 and irrefutable proof that a member willfully misappropriated client funds for his own use and is  
16 culpable of moral turpitude thereby. The petitioner complained to, and sought review from the  
17 respondents, that this premise is illegal; it is contrary to the holding of the United States Supreme  
18 Court in Brown v. Legal Foundation of Washington, 123 S.Ct. 1406, 538 U.S. 216, 155 L.Ed.2d  
19 376 (U.S. 03/26/2003) holding that, for an IOLTA scheme *not* be a taking under the 5<sup>th</sup>  
20 Amendment, it requires the choice of a non-IOLTA account when net interest can be generated  
21 for the client or trust beneficiary.

22 6. Indeed, the United States Supreme Court determined that a lawyer who mistakenly uses  
23 an IOLTA account for money that could earn interest for the client would violate his fiduciary  
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1 duty and oath as an attorney. The respondents' premise forces California attorneys to unlawfully  
2 keep client funds in their IOLTA account or be disciplined and disbarred by respondents .

3 7. The respondents' attorney disciplinary scheme forces attorney members to not only  
4 violate their duty to trust beneficiaries, in this case medical care lien-holders, but to their  
5 attorney's oath to uphold the United States and California Constitutions. The respondents'  
6 scheme violates the attorneys' right to counsel and to act in the best interests of his clients,  
7 interfering with petitioner's contractual obligations. Article me, section 10, clause 1 of the Unites  
8 States Constitution states "No State shall .... enact any Law impairing the Obligation of  
9 Contracts..." Petitioner seeks a declaration that respondents' scheme violates Article 1.  
10

11 8. The petitioner seeks an order declaring respondents' said premise unconstitutional, that  
12 petitioner cannot be found culpable of any wrongdoing of any kind on such a premise.

13 9. The petitioner requests this court declare the respondents conduct an accounting of every  
14 IOLTA account maintained by all California attorneys for the previous three years, the statute of  
15 limitations of the State Bar for initiating discipline, as the respondents' premise forces all  
16 California attorneys illegally to keep entrusted funds in the respondents IOLTA trust accounts.

17 10. The petitioner also complains that the defendants' attorney disciplinary scheme is a sham.  
18 For instance, the respondents fraudulently denied petitioner review on the grounds it was not  
19 requested, when it was. The respondents refuse to follow their own rules. The respondents'  
20 fabricate facts to support their conclusions, such as that the petitioner stipulated to wrongdoing.  
21 The proceedings do not allow the plaintiff to present evidence in response to accusations. The  
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1 respondents refused the petitioner his right to look at his own files and documents. Because the  
2 respondents are granted absolute power<sup>1</sup> by the State of California they are absolutely corrupt.

3 11. Petitioner alleges on his and on behalf of all attorneys in the State of California that  
4 respondents' attorney discipline scheme as administered is a sham designed to drive inexpensive  
5 small firm and sole practitioner California lawyers out of the law, leaving only expensive big-  
6 firm law offices that the general public cannot afford. The general public is left with relying on  
7 the grace of politically oriented *pro bono* programs approved, certified by respondents, funded  
8 from their IOLTA income, and staffed primarily by respondent-approved big-firm-highly-paid  
9 associates, for representation. Or the public can proceed in *pro. se*. The result is that the public,  
10 unable to afford high-priced-big-firm attorneys, is left at respondents' whim and mercy.

12 12. The petitioner seeks an order declaring respondents' scheme is neither administered in  
13 accordance to its own rules, law and regulations nor in a lawful or constitutional manner, and  
14 that it must be.

15 13. The plaintiff petitioner seeks a declaration that the respondents' conduct their scheme  
16 constitutionally. An example of the arbitrariness and malice of the respondents' scheme is that  
17 the petitioner was ordered as a probation condition, to take two hours of a Mandatory Continuing  
18 Legal Education (hereafter, MCLE) approved anger management class for complaining of the  
19 respondents' sham proceedings. There is no such MCLE approved program. More importantly,  
20 the requirement invades the petitioner's medical privacy as it is an diagnosis to seek medical  
21 care, a diagnosis unsupported by any medical evidence; none of the respondents' or their  
22 functionaries involved to date is qualified to practice medicine.  
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<sup>1</sup> Respondents claim they are exempt from the constraints of the United States Constitution under the *sui generis* doctrine - their doctrine holding that their law is above the supreme law of the land.

1 14. The plaintiff and petitioner alleges respondents' scheme as administered results in an  
2 overwhelming percentage of disciplinary charges against low priced small firms or sole  
3 practitioners, with over 94% of charged attorneys being found culpable and, later, being  
4 disbarred for essentially administrative oversights, such as failing to check a box on a probation  
5 form as determined in a manner secretly dictated by the respondents without notice. In the  
6 instant matter, for example, the petitioner initially was offered a private reproof if he would stop  
7 complaining about the illegal IOLTA program, and, then, suspended for two years, for refusing  
8 to admit to "moral turpitude."

9 15. The plaintiff and petitioner alleges the respondents' scheme infringes his 1<sup>st</sup> Amendment  
10 speech rights. For many years the respondent has been a critic of the respondent California  
11 Supreme Court for its mis- and mal-administration of the California courts, judges, their pro  
12 bono program, attorney discipline, on how and to whom IOLTA funds are distributed and other  
13 practices under the respondents administrative authority. The petitioner submits that by  
14 respondents' mandating that the interest from IOTLA scheme serve causes the respondents  
15 choose not only takes property in violation of the Fifth and Fourteenth Amendments to the  
16 Constitution of the United States but also grants to itself a monopoly which is then is used for the  
17 forced support of its viewpoints. The respondents' actions are serious violations of petitioner's  
18 First Amendment rights thereby. See Abood v. Detroit Bd. of Ed., 431 U. S. 209 (1977); Keller  
19 v. State Bar of Cal., 496 U. S. 1 (1990). One constitutional violation (the taking of property) has  
20 lead to another (compelled speech) and another (invasion of privacy) and another (interference  
21 with contract.)

22 16. The petitioner alleges that the respondents require the petitioner to atone in order to  
23 maintain admission to the California State Bar; this in violation of Article Six of the United  
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1 States Constitution prohibiting religious tests for holding office or public trust. The respondents'  
2 state that, their proceedings, being *sui generis*, are not subject to the constraints of the United  
3 States Constitution; this is in violation of the Article Six of the United States Constitution.

4 Although respondents are granted a great deal of presumptions, privileges and immunities  
5 omnipotence is not one of them. Condoning an order that the petitioner atone grants respondents  
6 the power to see into the petitioners' heart and they may disbar the respondent not having been  
7 complied with it without further proof. The petitioner seeks a declaration that an order that  
8 petitioner atone is unconstitutional.  
9

10 17. Under California law, attorney disciplinary matters are handled by the respondents' State  
11 Bar Court ("Bar Court"), an administrative arm of the respondents Supreme Court of California.  
12 In practice it simply adopts the prepared findings of the respondents' prosecuting arm,  
13 respondents' Office of Trial Counsel. The California Constitution precludes the respondent State  
14 Bar Court and its judges from considering federal constitutional claims. See Calif. Const. art. III,  
15 § 3.5. The respondents seek to evade the Constitutional protections by claiming their scheme is  
16 not punishment or punitive but for the purpose of protecting the public and rehabilitation of  
17 attorneys. This is a fraudulent premise and a sham policy that is recited and ignored. A  
18 constitutional violation, even if established by a federal court, is part of California law. And  
19 "California law includes federal law." (People ex rel. Happell v. Sischo (1943) 23 Cal.2d 478,  
20 491) Federal law is 'the supreme law of the land (U.S. Const., art. VI, sec. 2) to the same extent  
21 as though expressly written into every state law." Kashani v. Tsann Kuen China Enterprise Co.  
22 (2004) 118 Cal.App.4th 531, 543. Thus the State Bar court and its judges are acting in violation  
23 of Article Six Section 2 and their decisions, rulings or recommendations are void and invalid.  
24  
25 Petitioner requests that the law be declared invalid and the State Bar Court's recommendations



1 and decisions are and always have been invalid and void as a matter of law and incapable of  
2 review even if review was validly conducted, which it was not.

3 18. The Bar Court is purported to be divided into a Hearing Department and a Review  
4 Department. In fact, there are no ethical walls between the respondents' prosecutor, judges' staff  
5 and administration; all personnel and the departments are intermingled; decisions are written  
6 before the proceedings and hearings take place.

7 19. Respondents' claim an attorney may appeal to the Review Department, which it claims  
8 reviews the Hearing Department's findings de novo and makes its own recommendation. This is  
9 false; the Review Department fabricates facts and conclusions. Here, respondents review court  
10 denied that petitioner requested review when he had. Abstention is inappropriate where "... that  
11 the state tribunal is incompetent by reason of bias." Gibson v. Berryhill, 411 U.S. 564, 577-79,  
12 36 L. Ed. 2d 488, 93 S. Ct. 1689 (1973). Plaintiff and petitioner seeks a declaration that the  
13 respondents' tribunal is incompetent.

14 20 Respondents claim the accused may file a petition for review with the California  
15 Supreme Court. They claim it either grants review and issues a final order or denies review, in  
16 which case the Bar Court's recommendation is filed as an order of the Supreme Court. In  
17 practice, respondent Supreme Court does not read the recommendations, rarely grants review and  
18 refuses to oversee or control the proceedings of the State Bar, denying virtually all petitions  
19 presented to it without considering them.

20 21. Throughout this process, the Supreme Court retains inherent jurisdiction over attorney  
21 disciplinary matters yet refuses to exercise it. In practice, the respondents Supreme Court  
22 exercises no control, oversight or supervision, allowing the respondents State Bar Court and its  
23 Review Department to operate as sham and a fraud.  
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22. Disciplinary rules governing the legal profession cannot punish activity protected by the First Amendment. First Amendment protection survives even when an attorney violates an ethical rule that he or she swore to obey when admitted to the practice of law. (Gentile v. State Bar of Nevada (1991) 501 U.S. 1030, 1054.)

#### STANDING

23. The plaintiff petitioner has suffered distinct and palpable injuries traceable to the challenged scheme and provisions, both facially and as applied, that would likely be redressed by a favorable decision for the plaintiff petitioner and has been otherwise harmed as alleged above and below and continues to be harmed by the conduct of the defendants unless the declaratory relief is granted. The petitioner seeks prospective relief.

#### IMMUNITY NOT AVAILABLE

24. This Court "... need not decide whether judicial immunity would bar prospective relief," for the respondents are sought to be "... held liable in their enforcement capacities." Virginia v. Consumers Union of the United States, Inc., 446 U.S. 719, 736 (1980)

25. A suit seeking prospective equitable relief against a state actor who has engaged in a continuing violation of federal law is not deemed to be a suit against the State for purposes of state sovereign immunity. Will v. Mich. DeD't of State Police, 491 U.S. 58, 71, 109 S. Ct. 2304, 105 L. Ed. 2d 45 (1989) Since the State cannot authorize its officers to violate federal law, such officers are "stripped of [ their] official or representative character and [ are ] subjected in [their] person to the consequences of [their] individual conduct." Relief is available to remedy continuing violations of federal statutory as well as constitutional law. Sufamor Danek Group, Inc. v. Brown, 124 F. 3d 1179, 1184 (9th Cir. 1997)." California case law supports exceptions to

1 judicial immunity. (See Regan v. Price, 2005 DJDAR 10071 (Cal. App. 3rd Dist. Aug. 17,  
2 2005).)

3 26. Absolute judicial immunity only applies to judicial acts and not to administrative,  
4 legislative, and executive functions that judges may perform. Crooks v. Maynard, 913 F.2d 699  
5 (9th Cir. 08/31/1990) Judges are not immune, "... from claims for prospective injunctive relief."  
6 Lebbos v. Judges of Super. Ct. of Santa Clara County, 883 F.2d 810, 813 n.5 (9th Cir. 1989)

7 27. In determining whether the doctrine of Ex parte Young avoids an Eleventh Amendment  
8 bar to suit, a court need only conduct a "straightforward inquiry into whether [the] complaint  
9 alleges an ongoing violation of federal law and seeks relief properly characterized as  
10 prospective." Idaho v. Coeur d'Alene Tribe of Idaho, 521 U. S. 261, 296 (1997)

11 28. Although "(T)he *Rooker-Feldman* doctrine ... does not authorize district courts to  
12 exercise appellate jurisdiction over state-court judgments, which Congress has reserved to this  
13 Court, see 28 U. S. C. §1257(a)...the doctrine has no application to judicial review of executive  
14 action." Verizon Maryland Inc. v. Public Service Commission of Maryland, 122 S.Ct. 1753,  
15 1760, 122 S.Ct. 1959, 152 L.Ed.2d 1020, 152 L.Ed.2d 871 (U.S. 05/20/2002)

#### 16 OPPOSITION TO MAGISTRATE

17 29. Plaintiff OBJECTS to magistrate's jurisdiction, therefore, pursuant to F.R.C.P., Rule  
18 73(b), all proceedings shall be preformed by an Article III judicial officer, including all pre-trial  
19 conferences required by Rule 16, see Sanders v. Union Pacific R.R., -F. 3d (9th Cir. 2001)

#### 20 BACKGROUND FACTS

21 30. The plaintiff petitioner was admitted to the California Bar in 1990. Shortly thereafter he  
22 volunteered for the State Bar pro bono program (hereafter, program), representing litigants pro  
23 bono in family law cases. After participating in the program for some time he complained that he  
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1 was constantly assigned cases of dissolution of sham marriages for immigration fraud purposes.  
2 He asked if the program could have a more thorough screening system as he felt this was an  
3 improper use of pro bono services. Instead, the respondents' awarded the plaintiff its' State Bar's  
4 Wiley M. Manuel award for the many pro bono hours he had performed and never contacted him  
5 again with referrals. Defendants' grant of such awards is their backhanded way to silence  
6 dissent. In the disciplinary proceeding the respondents considered the award as nugatory in  
7 supporting the petitioner's credibility and good character. They consider their own awards as  
8 frivolous.

9  
10 31. In 1998 the plaintiff undertook representing a client in a personal injury matter; she  
11 alleged she slipped and fell in a theater on a torn carpet. The client represented she had been  
12 severely injured. The plaintiff obtained her medical records. He could find only one entry in her  
13 records indicating a minor fall complaint. The hospital, San Francisco General, sent a lien for  
14 over \$35,000 on any recovery the client had in the matter; the lien was for bills for treatment  
15 unrelated to a fall. The petitioner expressed his concern about this lien. Upon demand, the insurer  
16 for the theater landlord sent a check for \$5,000 to pay medical bills regardless of whether the  
17 theater landlord was at fault. The plaintiff placed the \$5,000 in his State Bar IOLTA account as  
18 mandated by the defendants' scheme. The client later fired the plaintiff as her attorney.

19  
20 32. The \$5,000 held in trust; it was disputed as to which medical care provider was entitled to  
21 them. The plaintiff obtained an agreement with the sole lien claimant to, San Francisco General  
22 Hospital, to put the entrusted \$5,000 in separate trust earning interest for the trust beneficiaries, if  
23 any, until the resolution of the claims of the client, or when it was decided who was owed the  
24 money, given the funds were solely to pay for past or future medical treatment. At no time was  
25

1 the client entitled to or was any of the 5,000 to be given to the client. The client was informed of  
2 and agreed to these arrangements.

3 33. After six months, a new attorney contacted the plaintiff and claimed the client was not  
4 informed of receipt of the \$5,000. The plaintiff informed the new attorney that the client was  
5 informed, and immediately sent the client's new attorney the \$5,000 to hold in trust, along with  
6 his lien for fees and costs earned. In response to the claim for fees and costs, the new attorney  
7 prepared and had the client sign a complaint to the State Bar alleging petitioner had not informed  
8 the client of receipt of the \$5,000 for payment of medical bills.

9 34. The respondent State Bar contacted the petitioner and asked him about the complaint.  
10 Petitioner informed the State Bar that he had informed client of receipt of the \$5,000. The client  
11 demanded but the plaintiff refused to give the money to her. The petitioner explained again that  
12 the \$5,000 belonged to medical care lien holders, including San Francisco General Hospital, who  
13 had agreed to holding of the \$5,000 in non-IOLTA trust.

14 35. The respondent did not hear from the defendant State Bar again for several years. Then  
15 the defendant received a letter from defendant Erica Demmings advising him he was to be  
16 charged with several counts of misconduct relating to the \$5,000 including misappropriation for  
17 not leaving the funds in the defendants IOLTA account. He was offered private reproof in lieu  
18 of charges being filed. He was sent a document entitled private reproof, prepared by defendant  
19 and respondent State Bar. It said the plaintiff was to stipulate to moral turpitude. The plaintiff  
20 objected to that part of the stipulation and agreed to stipulate to negligence in handing the trust  
21 funds as his records were hand-written. The defendants State Bar and Erica Demmings along  
22 with defendant David Hummer were present when the defendants agreed to this form of the  
23 private reproof. The plaintiff signed and returned the stipulation to private reproof without  
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1 moral turpitude portion sent to him by the defendants. The defendants refused to honor their  
2 agreement and filed charges against the plaintiff. The respondents refused and continue to refuse  
3 to honor their agreement.

4 36. The petitioner filed a number of motions after the charges were filed with the respondent  
5 State Bar Court. All were denied, without reason, despite plaintiff's request a statement of  
6 decision for each. One motion was brought on the grounds that the only reason the charges were  
7 filed was because the petitioner's IOLTA account fell below the \$5,000 despite the funds being  
8 held in a non-IOLTA trust. The motion was denied without reason given.

9 37. A hearing was held with defendant and respondent Patrice McElroy. Defendant and  
10 respondent Tammy Albertsen Murray prosecuted the charges against the plaintiff. The evidence  
11 presented showed the client was never entitled to any part of the \$5,000 or allowed to hold it in  
12 trust; all was owed to medical care lien holders, except one-third payable to the plaintiff. The  
13 evidence showed the only claimed lien holder was the San Francisco General Hospital. The  
14 evidence showed the said claimed lien holder was on notice of the \$5,000 held in trust and  
15 agreed the \$5,000 could be held in a non-IOLTA trust pending resolution of the client's claims.  
16 Respondent McElroy rejected this evidence holding that because the amount of the plaintiff's  
17 IOLTA account fell below \$5,000 the petitioner had willfully misappropriated the some or all of  
18 it for his own use, and was irrefutably culpable of moral turpitude thereby. At the hearing the  
19 plaintiff was refused his request to look at his own file and to produce evidence from it showing  
20 he had placed the \$5,000 in trust earning interest for the trust beneficiaries, whoever they were  
21 determined to be. The defendant Pat McElroy determined the plaintiff petitioner was entitled to  
22 one third of the \$5,000 held in trust as a fee and the remainder belonged to trust beneficiaries  
23 other than the client who filed a complaint against the plaintiff.  
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1 38. The petitioner sought review. The review court, before respondents Epstein, Watai and  
2 Stovitz, refused plaintiff's rights as alleged above, and adopted the findings of the State Bar  
3 court and respondent McElroy. They refused to review the several motions, despite specific  
4 pleadings by the petitioner that it does so. They falsely stated no such request was made by the  
5 petitioner and therefore it need not address the issue that their and the respondent State Bar  
6 court's finding conflicted with the holding in Brown v. Legal Foundation of Washington, 123  
7 S.Ct. 1406, 538 U.S. 216. The defendants review department also falsely stated the petitioner  
8 stipulated to culpability.  
9

10 39. Petitioner sought review to the respondents, the justices of the Supreme Court of  
11 California in their capacity as administrators of the attorney discipline scheme. Their response  
12 was to deny review and accept the findings of the respondents State Bar review department  
13 without comment. The petitioner was suspended by the respondents from the practice of law for  
14 two years with three years of probation, with conditions, including taking an ethics course and  
15 'anger management' class approved by MCLE. There being no provider of such a class as it  
16 would be illegal, it is an impossible condition for which the respondent will be disbarred if this  
17 court declines to act. The final order of the respondent Supreme Court of California was made on  
18 June 20, 2007.

19 40. Respondents' published report of the discipline imposed on the plaintiff falsely stated the  
20 plaintiff did not send the \$5,000 to the new attorney for the client for over five months after  
21 request was made for "return of the funds" (falsely intimating the funds were taken in the first  
22 place.) This is false; the evidence shows the \$5,000 was sent to the new attorney within five days  
23 after receiving the request for them.  
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1 41. The reason that the moral turpitude finding is important to the plaintiff is because such a  
2 finding by the respondents becomes a record that prevents the petitioner from obtaining any  
3 other professional license in the State of California or elsewhere. Respondents' unlawful conduct  
4 violates the Commerce Clause thereby.

5 PARTIES

6 42. At all times relevant Plaintiff and petitioner Francis Thomas Fahy was an attorney  
7 admitted to practice before all the courts of the State of California and practiced law in the  
8 county of San Francisco, California.

9 43. Defendant and respondent the Supreme Court of California is the supreme judicial body  
10 for the State of California, created under the constitution of the State of California, controlling  
11 as well as administering the attorney admissions and discipline scheme by and through its  
12 administrative arm the defendant State Bar of California but retains final authority over said  
13 admissions and discipline, said scheme being enacted and approved by the defendant and  
14 respondent the State of California, a state of the union of the United States of America.

15 44. Defendant and respondent State Bar of California (hereafter, State Bar) is an organization  
16 created under California law as the administrative arm of the California Supreme Court for its  
17 attorney admissions and discipline scheme.

18 45. At all times relevant defendant and respondent Ronald George was and is hereby sued in  
19 his individual and official capacity as chief justice of the Supreme Court of the State of  
20 California as chief administrator of the attorney admission and discipline scheme enacted in the  
21 State of California.

22 46. At all times relevant defendant and respondent Marvin Baxter was and is hereby sued in  
23 his individual and official capacity as associate justice of the Supreme Court of the State of  
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1 California, and as administrator of the attorney admission and discipline scheme enacted in the  
2 State of California.

3 47. At all times relevant defendant and respondent Joyce Kennard was and is hereby sued in  
4 her individual and official capacity as associate justice of the Supreme Court of the State of  
5 California, and as administrator of the attorney admission and discipline scheme enacted in the  
6 State of California.

7 48. At all times relevant defendant and respondent Ming Chin is hereby was and sued in his  
8 individual and official capacity as associate justice of the Supreme Court of the State of  
9 California, and as administrator of the attorney admission and discipline scheme enacted in the  
10 State of California,  
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12 49. At all times relevant defendant and respondent Kathryn Mickle Werdegarr is hereby sued  
13 in her individual and official capacity as associate justice of the Supreme Court of the State of  
14 California, and as administrator of the attorney admission and discipline scheme enacted in the  
15 State of California,

16 50. At all times relevant defendant and respondent Carlos R. Moreno is hereby sued in his  
17 individual and official capacity as associate justice of the Supreme Court of the State of  
18 California, and as administrator of the attorney admission and discipline scheme enacted in the  
19 State of California,  
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21 51. At all times relevant defendant and respondent Carol A. Corrigan was and is hereby sued  
22 in her individual and official capacity as associate justice of the Supreme Court of the State of  
23 California and as administrator of the attorney admission and discipline scheme enacted in the  
24 State of California,  
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1 52. At all times relevant defendant and respondent Epstein was and is hereby sued in her  
2 individual and official capacity as a review judge and official of the State Bar, the administrative  
3 arm of the Supreme Court of the State of California in its administration of the attorney  
4 admission and discipline scheme enacted in the State of California.

5 53. At all times relevant defendant and respondent Watai was and is hereby sued in her  
6 individual and official capacity as a review judge and official of the State Bar, the administrative  
7 arm of the Supreme Court of the State of California in its administration of the attorney  
8 admission and discipline scheme enacted in the State of California,  
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10 54. At all times relevant defendant and respondent Stovitz was and is hereby sued in his  
11 individual and official capacity as a review judge and official of the State Bar, an administrative  
12 arm of the Supreme Court of the State of California in its administration of the attorney  
13 admission and discipline scheme enacted in the State of California,

14 55. At all times relevant defendant and respondent Lawrence J. Del Cerro was and is hereby  
15 sued in his individual and official capacity as director, agent employee supervisor manager or  
16 administrator of each of the other defendants and official of the State Bar, Office of Trial  
17 Counsel, an administrative arm of the Supreme Court of the State of California in its  
18 administration of the attorney admission and discipline scheme enacted in the State of California.  
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20 56. At all times relevant defendant and respondent Scott Drexel was and is hereby sued in his  
21 individual and official capacity as a director agent employee supervisor manager or administrator  
22 of each of the other defendants and official of the State Bar, Office of Trial Counsel, an  
23 administrative arm of the Supreme Court of the State of California in its administration of the  
24 attorney admission and discipline scheme enacted in the State of California.  
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1 57. At all times relevant defendant and respondent Donald R. Steedman was and is hereby  
2 sued in his individual and official capacity as attorney agent employee supervisor manager or  
3 administrator of each of the other defendants and official of the State Bar, Office of Trial  
4 Counsel, an administrative arm of the Supreme Court of the State of California in its  
5 administration of the attorney admission and discipline scheme enacted in the State of California.

6 58. At all times relevant defendant and respondent Tammy Albertsen-Murray was and is  
7 hereby sued in her individual and official capacity as agent employee supervisor manager or  
8 administrator of each of the other defendants and an official of the State Bar, Office of Trial  
9 Counsel, an administrative arm of the Supreme Court of the State of California in its  
10 administration of the attorney admission and discipline scheme enacted in the State of California.

11 59. At all times relevant defendant and respondent Jeff Bleich was and is hereby sued in his  
12 individual and official capacity as president, director, agent employee supervisor manager or  
13 administrator of each of the other defendants and an official of the State Bar, an administrative  
14 arm of the Supreme Court of the State of California in its administration of the attorney  
15 admission and discipline scheme enacted in the State of California.

16 60. At all times relevant defendant and respondent Sheldon Sloan was and is hereby sued in  
17 his individual and official capacity as president, director, agent employee supervisor manager or  
18 administrator of each of the other defendants and official of the State Bar, an administrative arm  
19 of the Supreme Court of the State of California in its administration of the attorney admission  
20 and discipline scheme enacted in the State of California.

21 61. At all times relevant defendant and respondent Erica L. Demmings was and is hereby  
22 sued in her individual and official capacity as attorney, agent employee supervisor manager or  
23 administrator of each of the other defendants and official of the State Bar, an administrative arm  
24  
25

1 of the Supreme Court of the State of California in its administration of the attorney admission  
2 and discipline scheme enacted in the State of California.

3 62. At all times relevant defendant and respondent Thomas Hummer was and is hereby sued  
4 in his individual and official capacity as agent employee supervisor manager or administrator of  
5 each of the other defendants and official of the State Bar, an administrative arm of the Supreme  
6 Court of the State of California in its administration of the attorney admission and discipline  
7 scheme enacted in the State of California.

8 63. At all times relevant defendant and respondent Patrice McElroy was and is hereby sued in  
9 her individual and official capacity as hearing officer, agent employee supervisor manager or  
10 administrator of each of the other defendants and official of the State Bar court, an administrative  
11 arm of the Supreme Court of the State of California in its administration of the attorney  
12 admission and discipline scheme enacted in the State of California.

13 64. At all relevant time defendants and respondents were acting under color of state law.

14  
15 CAUSE OF ACTION FOR DEPRIVATION OF RIGHTS

16 UNDER COLOR OF LAW OR AUTHORITY

17 42 U.S.C. 1983

18 By this reference, Plaintiff incorporates each and every allegation and averment set forth  
19 in paragraphs 1 to 64 of this Complaint as though fully set forth herein.

20 65. Plaintiff hereby asserts against each and every defendant named above a claim for their  
21 'conduct or behavior" and/or "committed in conspiracy" under color of law, or official right, to  
22 deprive plaintiff of rights, privileges, and immunities secured by Act of Congress and the  
23 Constitution of the United States, and with intent to injure plaintiffs person and property, for  
24 which the court can award damages and injunctive relief.  
25

1 66. Plaintiff asserts a claim against every above-said defendants for their conduct and  
2 behavior committed depriving plaintiff of his First, Fourth, Sixth and Fourteenth Amendment  
3 rights under the Constitution, including to due process under proper proceedings at law, which  
4 presents a claim for which the court can award damages and injunctive relief.

5 67. Section 1983 of Title 42 of the United States Code forbid an individual, while acting  
6 under color of state law, to deprive a citizen of a right secured by the constitution of the law of  
7 the United States.

8 68. Amendment 1 of the United States Constitution provides the plaintiff with a right to  
9 engage in speech free from government interference, control, limitation or retaliation as well as  
10 petition the government for redress without government interference control limitation or  
11 retaliation.

12 69. In a continuing violation beginning in 2003 the defendants participated in or permitted  
13 condoned and encouraged action including adverse licensing action against the plaintiff in  
14 retaliation for the exercise of his First Amendment rights.

15 70. In a continuing violation beginning in 2003 defendants have participated in or permitted  
16 condoned and encourage the disport and unfair treatment of the plaintiff due to the exercise of  
17 his First Amendment rights.

18  
19 CLAIM FOR CONSPIRACY AGAINST RIGHTS

20 18 United States Code section 241.

21  
22 By this reference, Plaintiff incorporates each and every allegation and averment set forth  
23 in paragraphs 1 to 64 of this Complaint as though fully set forth herein.

24 71. Plaintiff hereby asserts a claim against said defendants for conspiracy.

25 72. Defendants did knowing violate "clearly established law," and demonstrated a reckless  
disregard for law, and the federal civil rights of citizens and the Constitution that they are sworn

1 to defend and protect, and did subject plaintiff with deprivation of rights, privileges, and  
2 immunities secured by Act of Congress, and the Due Process Clause of the Constitution of the  
3 United States, the predicate acts, committed in conspiracy were the direct, or indirect causation  
4 of plaintiffs injuries to his person and property and present a cognizable claim for which the  
5 court can award damages and declaratory relief.

6 73. The said defendants acted as stated above order to punish and deter the plaintiff from and  
7 for his complaining about the unlawful practices in California as specified above.

8 CAUSE OF ACTION FOR CIVIL CONSPIRACY

9 TO VIOLATE PLAINTIFF'S CIVIL RIGHTS

10 UNDER SECTION 42 U.S.C. § 1983-1986

11 By this reference, Plaintiff incorporates each and every allegation and averment set forth  
12 in paragraphs 1 to 64 of this Complaint as though fully set forth herein.

13 74. Defendants and each of them and acting in their individual capacities and under color of  
14 law, having conspired together and with others, reached a mutual understanding and acted to  
15 undertake a course of conduct that violated Plaintiff's civil rights, to wit:  
16

17 75. The Defendants agreed and acted to intentionally falsely charge and prosecute the  
18 Plaintiff as aforescribed.

19 76. The Defendants agreed and acted to intentionally fabricate and contrive the charges  
20 lodged against Plaintiff as aforescribed.

21 77. The Defendants agreed and acted to intentionally submit false reports, statements, and  
22 testimony to support and corroborate the fabricated charges lodged against Plaintiff.

23 78. The Defendants agreed and acted with others to harass, threaten, and intimidate and  
24 terrorize Plaintiff in order to deprive him of his rights under the First Amendment of the United  
25 States Constitution.

1 79. The Defendants agreed and acted with others to punish Plaintiff for having exercised  
2 constitutionally protected rights to confront and question the performance of a public official.

3 80. As a direct and proximate result of the conspiracy between Defendants and others as  
4 aforescribed, Plaintiff was maliciously prosecuted, falsely charged and was deprived of his  
5 right to the equal protection of the laws, to due process rights to be free from arbitrary and  
6 unreasonable action, which are secured under the Fourth, Fifth, and Fourteenth Amendments to  
7 the United states Constitution and protected by 42 U.S.C. § 1983,

8 81. As a direct and proximate result of the conspiracy between Defendants and others as  
9 aforescribed, Plaintiff was defamed, injured in his reputation, relationships and his privacy  
10 was invaded.

11 82. As a direct and proximate result of the conspiracy between Defendants and others as  
12 aforescribed, Plaintiff was maliciously prosecuted, was deprived of his right the equal  
13 protection of the laws, to due process rights to be free from arbitrary and unreasonable action,  
14 which are secured under the First, Fourth, Fifth, and Fourteenth Amendments to the United states  
15 Constitution and protected by 42 U.S.C. § 1983, was defamed, injured in reputation and  
16 relationships.

17  
18 CAUSE OF ACTION FOR SUPERVISORY LIABILITY  
19 OF DEFENDANT SUPREME COURT OF CALIFORNIA, ET ALIA,  
20 COGNIZABLE UNDER SECTIONS 42 U.S.C. 1983 AND 1986  
21

22 By this reference, Plaintiff incorporates each and every allegation and averment set forth  
23 in paragraphs 1 to 64 of this Complaint as though fully set forth herein.

24 83. Defendants justices of the California Supreme Court as Administrators and their  
25 designated representative, along with defendants State Bar and its agents, employees,



1 administrators, directors, president and managers knew or in the exercise of due diligence should  
2 have known that the conduct of the other defendants was likely to and did occur.

3 84. Said defendants intentionally, maliciously and/or negligently failed to take any  
4 preventative or remedial measures to guard against the conduct of the other Defendants more  
5 fully set forth and described herein.

6 85. Had defendants taken such measures, Plaintiff would not have suffered the deprivation of  
7 his rights fully set forth herein, the failure of amounted to deliberate indifference, or deliberate  
8 misconduct, which directly caused the deprivations suffered by Plaintiff. Said defendants failed  
9 to train, instruct, supervise, and discipline the other Defendant, and said failure caused Plaintiffs  
10 damages.  
11

12 86. After Plaintiff had been charged, defendants participated, directly or indirectly, in the  
13 prosecuting the plaintiff, had knowledge of the widespread and pervasive policy, custom,  
14 practice, and usage of malice, fraud, animosity and intentional discrimination toward defendants  
15 and other attorneys like him, that the administration's wrongdoing motivated conspiratorial  
16 wrongs against Plaintiff were about to be committed, had power to prevent or to aid in  
17 preventing the commission of those wrongs, and neglected to do so.

18 87. These wrongful acts were committed as aforescribed above and these wrongful acts  
19 could have been prevented by the exercise of reasonable diligence by the said defendants .  
20

21 88. As a direct and proximate result of the aforescribed unlawful and malicious acts of  
22 Defendants, Plaintiff was deprived of his right to be secure against unlawful and unreasonable  
23 harm, injury, to equal protection of the laws, and to Due Process of Law, in violation of the  
24 Fourth and Fourteenth Amendments.

25 CAUSE OF ACTION AGAINST THE JUSTICES OF THE CALIFORNIA SUPREME  
COURT, AS ADMINISTRATORS BY AND THROUGH ITS ADMINISTRATIVE ARM  
AND AGAINST THE STATE BAR OF CALIFORNIA AND ITS AGENCIES

1 By this reference, Plaintiff incorporates each and every allegation and averment set forth  
2 in paragraphs 1 to 64 of this Complaint as though fully set forth herein.

3 89. Defendants justices of the California Supreme Court, defendants State Bar of California  
4 and defendants as administrators, directors, agent and employees has failed and continues to fail  
5 to train its attorneys, judges and other employees, agents and personnel in fundamental  
6 constitutional and civil rights law and procedures in proceedings stated above.

7 90. Indeed, it is the policy of the said defendants in encouraging false statements and  
8 evidence, falsifying documents, fraud, and ratifying same by systemic deficiencies in  
9 disciplining said officers and personnel or in investigation of complaints;

10 91. The foregoing acts, omissions, and systemic failures are customs and policies of  
11 defendants and public entities stated above, and caused administration and enforcement officers  
12 of said defendants to believe that determination of the right to charge was within their discretion  
13 and that complaints of unlawfulness would not be honestly or properly investigated, with the  
14 foreseeable result that officers would be likely to illegally charge, threaten, illegal invasions of  
15 privacy and to use improper means and fabricate evidence.

16 92. As a direct and proximate cause of the aforesaid acts, omissions, policies and customs of  
17 said defendants caused plaintiff to be improperly charged and subjected to a sham proceeding.

#### 18 CAUSE OF ACTION FOR UNLAWFUL CHARGES, CONSPIRACY TO

#### 19 AND ISSUANCE OF CHARGES AND EXCESSIVE PROSECUTION

20 By this reference, Plaintiff incorporates each and every allegation and averment set forth  
21 in paragraphs 1 to 64 of this Complaint as though fully set forth herein.

22 93. At all times material and relevant herein, each of the defendants was acting within the  
23 scope of their authority as administrators, prosecutors or representatives' for each of the other  
24 Defendants

25 94. Said charges, harassment, prosecution and charges were in violation of state law, the  
Unruh Act, as well as Federal law.

95. Said threats, and charges and proceedings used against plaintiff were unreasonable and  
constituted oppression under the aforesaid laws of the State of California.

96. Plaintiff invokes the pendant jurisdiction of this Court to hear and determine this claim.

#### CAUSE OF ACTION FOR OTHER CIVIL RIGHTS VIOLATIONS

1 By this reference, Plaintiff incorporates each and every allegation and averment set forth  
2 in paragraphs 1 to 64 of this Complaint as though fully set forth herein.

3 97. At all times material to this complaint, defendants and each of them, were acting within  
4 the scope of their authority as a administrators, directors, deputies, prosecutors and/or for and of  
5 other defendants

6 98. Through its enforcement powers, administration, prosecutorial department, defendants  
7 pursued de facto policies, practices and customs that were a direct and proximate cause of the  
8 unconstitutional, harassment of the plaintiff, and the other deprivations of Constitutional rights  
9 alleged herein.

10 99. These policies, practices and customs include, inter alia: favoring particular attorneys to  
11 the exclusion of others, exclusion of evidence, commencing and maintaining a campaign of  
12 prosecution of objectors to the system, failure to properly screen, supervise, discipline, transfer,  
13 counsel or otherwise control directors, employees, prosecutors, judges, and administrators who  
14 are known or who should have been known to engage in the use of lawlessness, vindictive and  
15 groundless prosecution, especially those repeatedly accused of such improper acts; ratification of  
16 acts of improper use of prosecutorial powers, judging, and maintaining a code of silence  
17 wherein other administrators, judges, prosecutors, employees, personnel, officers and supervisors  
18 habitually cover up use of lawlessness and malicious, vindictive and sham proceedings.

19 100. A notice of claim against defendants in this matter was filed within the time provided by  
20 law and was denied by said defendants

21 101. Defendants are employed by, supervised, managed, controlled, ratified, approved of and  
22 directed by each of the other defendants at all times relevant to this action and their actions were  
23 within the scope of their employment, control or supervision.

24 CAUSE OF ACTION FOR MALICIOUS PROSECUTION  
25

1 By this reference, Plaintiff incorporates each and every allegation and averment set forth  
2 in paragraphs 1 to 64 of this Complaint as though fully set forth herein.

3 102. Defendants commenced and prosecuted a disciplinary case against the plaintiff that was  
4 utterly and completely without basis and designed to and did cause plaintiff to expend a great  
5 deal of time and emotional distress in fighting against the unfounded and unwarranted  
6 prosecution by the defendants, which have been a serious burden to plaintiff.

7 103. Plaintiff incurred and will be forced to incur substantial obligations for attorney's fees,  
8 court reporters' fees, investigation expenses, and other expenses in this civil suit because of the  
9 unfounded and unwarranted prosecution by the defendants, against plaintiff,

10 104. By reason of the above, plaintiff was greatly injured in his profession, business and  
11 reputation and was exposed to public scandal and disgrace, suffered great mental anguish, was  
12 prevented from attending to his business for a long time, and was deprived of his constitutional  
13 rights as described above, all to his damage.

14 105. As a direct and proximate result of the aforescribed unlawful and deliberately  
15 indifferent actions of defendants and each of them, committed under color of law and under their  
16 authority as the administrators of attorney discipline directly and by and through its  
17 administrative arm, the State Bar and its officers, Plaintiff suffered grievous harm and was  
18 deprived of his right to be free from accusations, discipline and entitled to the due process of law  
19 as guaranteed by the Fourteenth Amendment to the United States Constitution;

20 106. As a direct and proximate result of the aforescribed unlawful and deliberately  
21 indifferent actions of defendants and each of them, committed under color of law and under their  
22 authority as the administrators of attorney discipline directly and by and through its  
23 administrative arm, the State Bar and its officers, the Plaintiff was subjected to false prosecution  
24 and a deprivation of plaintiff's peace of mind without Due Process of law under the Fourteenth  
25 Amendment of the Constitution the United States and to be free of Cruel and Unusual

1 Punishment under the Eighth and Fourteenth Amendments of the Constitution of the United  
2 States resulted in the plaintiff being injured as alleged above and below.

3 107. As a direct and proximate result of Defendants the California Supreme Court justices  
4 acting as administrators, and other defendants deliberate and intentional failure to intercede on  
5 behalf of Plaintiff and prevent the violation of his constitutional rights as aforescribed,  
6 committed under color of law and under authority of the California Supreme Court, its agents  
7 and officers, Plaintiff suffered grievous mental anguish and was deprived of his right to be secure  
8 against unreasonable and false charges, in violation of the Fourth and Fourteenth Amendments of  
9 the Constitution of the United States and 42 U.S.C. § 1983.

10 CAUSE OF ACTION AGAINST SUPREME COURT OF CALIFORNIA JUSTICES AS  
11 ADMINISTRATORS OF THE ATTORNEY DISCIPLINE SCHEME BY AND THROUGH  
12 DEFENDANT STATE BAR AND ITS OFFICE OF ENFORCEMENT

13 By this reference, Plaintiff incorporates each and every allegation and averment set forth  
14 in paragraphs 1 to 64 of this Complaint as though fully set forth herein.

15 108. The defendants justices of the California Supreme Court in role as administrator of the  
16 scheme encourages approves, condones and participates with its deputies, employees, and  
17 agents in their unlawful charges, and ratifies and approves systemic deficiencies in the scheme  
18 and in failing to discipline officers or in investigation of complaints;

19 109. The foregoing acts, omissions, and systemic failures are customs and policies of and  
20 caused defendants deputies, directors, administrators and employees of the defendants to believe  
21 that determination of the right to issue false charges and warrants and to use illegal  
22 unconstitutional, fraudulent and sham practices is was and will be within their discretion and that  
23 complaints of illegal charges would not be honestly or properly investigated, with the foreseeable  
24 result that agents, deputies and officers would be likely to illegally issue and prosecute false,  
25 fraudulent, and sham charges proceedings and tribunals.

110. As a direct and proximate cause of the aforesaid acts, omissions, policies and customs of defendants in improperly charging him, and as a result of the lawlessness and misconduct of the defendants stated and named above, plaintiff sustained injuries, losses and damages as alleged above and below.

CAUSE OF ACTION AGAINST ALL DEFENDANTS FOR VIOLATION OF THE  
CALIFORNIA UNFAIR BUSINESS PRACTICES ACT

Business & Profession Code sec. 17200

By this reference, Plaintiff incorporates each and every allegation and averment set forth in paragraphs 1 to 64 of this Complaint as though fully set forth herein.

111. Defendants State of California, the Supreme Court of California, and its justices acting as administrators of the scheme, and the other defendants, and each of them, did the acts alleged above in order to further their illegal scheme, practices, procedures, business and activities as specified in and in violation of California Civil Code section 17200, et seq. including unlawful, unfair or fraudulent business acts or practices and unfair, deceptive schemes.

112. Plaintiff seeks each and every remedy provided under California Business & Professions Code section 17200 et seq., including injunctions, and treble damages, including attorney's fees.

CAUSATION

113. As a direct and proximate result of the conduct alleged, plaintiff suffered physical and emotional pain, trauma, turmoil, worry embarrassment, anguish and anxiety, as well as loss of property, earnings, and was required to obtain legal counsel and become obligated to pay attorneys fees. Defendants conduct was willful, fraudulent, reckless, malicious, oppressive, despicable and deceitful and done in reckless disregard of constitutional rights and with specific intent of harming and injuring the plaintiff and cause him severe emotional distress.

114. As a proximate and natural result of all defendants deprivation of plaintiffs Constitutional rights, conspiracy, actions, and omissions, including those of their agents, officers, employees,



1 who were acting in conspiracy and joint participation under color of official right, or under color  
2 of state law as governmental actors and private actors, plaintiff has been subjected to injuries and  
3 has suffered, will continue to suffer the following damages and losses and hereby prays for relief  
4 from all defendants, and each defendant as follows:

5 PRAYER FOR RELIEF

6 WHEREFORE, plaintiff and petitioner respectfully requests that this Court enter  
7 judgment in his favor as follows:

8 1. Declaring California's IOLTA scheme as enacted and administered by the  
9 defendants is an unlawful and uncompensated taking of under and in violation of the 5<sup>th</sup>  
10 Amendment of the United States Constitution.

11 2. Ordering the defendants and respondents State of California, justices of the  
12 Supreme Court of California, its administrator arm the State Bar of California and the other  
13 defendants and respondents named herein to present to the Court within 60 days a plan and  
14 timetable for bring the IOLTA scheme into compliance with the law.

15 3. Ordering the defendants and respondents the State of California, the Supreme  
16 Court of California and its justices, the State Bar of California and the other defendants and  
17 respondents named herein to present to the Court to conduct an accounting of all accounts  
18 maintained by all attorneys in the State of California under the defendants IOLTA scheme in  
19 order to determine amount of and then to compensate both plaintiff and the public for funds  
20 wrongfully taken from them under said IOLTA scheme as enacted or administered in the State of  
21 California.

22 4. Declaring the defendants and respondents State of California, Supreme Court of  
23 California and its justices as administrators of the attorney admissions and discipline scheme  
24 through its administrative arm, the State Bar and its agents, employees, directors, administrator  
25 and president as enacted in the State of California or as administered and applied to be in



1 violation of Article One and Six and the 1st 4th, 5th and 14th Amendments of the United States  
2 Constitution.

3 5. Ordering the State of California and the defendants and respondents named herein  
4 to present to the Court within 60 days a plan and timetable for bring defendants said admission  
5 and discipline plan into compliance with the law.

6 6. Declaring that defendants' presumption, that when an attorney's IOLTA account  
7 falls below an amount held in trust it constitutes willful misappropriation of entrusted funds by  
8 an attorney for the attorneys own use, violates the 5th Amendment taking clause, the 1st  
9 Amendment speech and the 14th Amendment due process and equal protection rights of the  
10 United States Constitution.

11 7. Mandating that the said defendants conduct, operate and administer proceedings  
12 in accordance with the United States Constitution, the law and not in a fraudulent and sham  
13 manner.

14 8. The plaintiff be awarded Damages in the amount to be determined and proven  
15 allowed according to law in the amount of not less than one hundred thousand dollars  
16 (\$101.000);

17 9. The plaintiff be awarded all damages permitted by state and Federal law,  
18 including treble damages under B&P Code section 17200 and the Unruh Act and any other  
19 monetary relief awarded by the jury as they believe reasonable and just compensation for  
20 Defendants' conduct which was egregious and the causation of plaintiff s injuries under the  
21 totality of the circumstances and by the preponderance of the evidence.

22 WHEREFORE, the plaintiff respectfully prays for Trial by Jury (F.R.C.P. Rule 38), and  
23 Judgment be rendered against all defendants for their conduct and behavior which deprived  
24 Plaintiff of rights secured by Acts of Congress, the Constitution of the United States and laws of  
25 the State of California as prayed for herein.

CERTIFICATION OF INTERESTED ENTITIES OR PERSONS

Pursuant to Civil L.R. 3-16, the undersigned certifies that of this date, other than the named parties, there is no such interest to report.

CERTIFICATION

I declare under penalty of perjury under the laws of the United States and of the State of California that the foregoing is true and correct except as to those matters stated on my information and belief and as to those matters, I believe them to be true. Signed this 16<sup>th</sup> day of May in the City & County of San Francisco, California

  
Francis Thomas Fahy